

JS 44 (Rev. 12/07) (and rev 1-16-08)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings in other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

## I. (a) PLAINTIFFS

EVE DEL CASTELLO

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

SAN FRANCISCO

(c) Attorney's (Firm Name, Address, and Telephone Number)

EVE DEL CASTELLO / IN PROPER  
865 SAN JOSE AVE, # 2  
SF, CA 94110 (415) 282-0894

## DEFENDANTS

ALAMEDA County TRANSITION  
PARKING ENFORCEMENT CENTER BZ

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Richard L. Winnie (68048)  
County Counsel  
RAYMOND LANA (21318) Deputy County  
Counsel, County of Alameda (PH) 510-272-  
1221 OAK ST, Suite 450 6700  
OAKLAND, CA 94612-4296 (FAX) 510-272-5020

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            | PTF                        | DEF   |                            |                            | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|-----|-----|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |     |     |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |     |     |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |     |     |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
			<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

4th, 5th, 8th &amp; 14 Amendments TO THE U.S. CONSTITUTION

Brief description of cause:

THE WOMAN IN VEHICLE CODE 40215 DENIES CIVIL RIGHTS TO DUE PROCESS

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMANDS  
 UNDER F.R.C.P. 23

 CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

 PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE  
 "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

6-18-08

SIGNATURE OF ATTORNEY OF RECORD

Eve Del Castello

Miss EVE DEL CASTELLO, IN PROPER PERSON  
 Name and Address  
 865 SAN JOSE AVE #2  
 S.F., CA 94110

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

BZ

Case No. 08 3012

EVE DEL CASTELLO

Plaintiff / Petitioner

VS.

ALAMEDA COUNTY TRANSIT  
 PARKING ENFORCEMENT CENTER

Defendant / Respondent

Document Name: COMPLAINT

DEMAND

TO DELETE OF

THE ILLEGAL/UNCONSTITUTIONAL

WORKING IN SECTION (b) OF  
 VEHICLE CODE 40215

1. JURISDICTION: THIS COURT HAS JURISDICTION OVER THIS COMPLAINT BECAUSE IT ARISES UNDER THE LAWS OF THE U.S.
2. VENUE: VENUE IS APPROPRIATE IN THIS COURT BECAUSE BOTH THE DEFENDANT RESIDES IN THIS DISTRICT AND A SUBSTANTIAL AMOUNT OF THE VIOLATIONS GIVING RISE TO THIS LAWSUIT OCCURRED IN THIS DISTRICT.
3. INTRADISTRICT ASSIGNMENT. THIS LAWSUIT SHOULD BE ASSIGNED TO THE SAN FRANCISCO DIVISION OF THIS COURT BECAUSE ALL OF THE VIOLATIONS WHICH GIVE RISE TO THIS LAWSUIT OCCURRED IN ALAMEDA COUNTY (OAKLAND).
4. PLAINTIFF EVE DEL CASTELLO WAS VICTIMIZED, AS WELL AS OTHERS CURRENTLY IN THIS STATE, BY BEING DENIED THE RIGHT OF DUE PROCESS - 40215 VEHICLE CODE SECTION (b) "I SHALL DEPOSIT THE AMOUNT OF THE PARKING PENALTY WITH THE PROCESSING AGENCY" - REGARDLESS OF ABILITY TO PAY -

EVE DEL CASTELLO

Plaintiffs

v. Alameda County Transit  
Parking Enforcement Center  
Defendant

MEMORANDUM OF  
POINTS & AUTHORITIES

5. THE INITIAL ORDER THAT I WAS GRANTED 3-8-07  
IN THE SUPERIOR COURT OF CALIFORNIA, OAKLAND  
WAS ... "TO HALT THE ALAMEDA COUNTY PARKING ENFORCEMENT  
CENTER FROM REQUIRING THAT ALL POSSIBLE FINES BE  
PAID IN ADVANCE OF TRIAL (HEARING) BEING ALLOWED.

PLAINTIFF'S RIGHTS TO DUE PROCESS UNDER THE FOURTH,  
FIFTH AND EIGHTH AMENDMENTS TO THE U.S. CONSTITUTION,  
WHICH HAVE BEEN MADE BINDING ON CALIFORNIA AND  
OTHER STATES BY THE FOURTEENTH AMENDMENT.

6. THE ORDER FURTHER INCLUDED THE RIGHT OF PERSON  
CHARGED WITH CRIME TO BE RELEASED DURING TRIAL AND  
PENDING JUDICIAL REVIEW IS HEAVILY FAVORED, AND REQUIREMENT  
FOR SECURITY BOND MAY, IN A PROPER CASE, BE DISPENSED  
WITH. FED. RULES CRIM. PROC. - RULE 46 [d], 18 U.S.C.A.  
BARRY V. U.S., 81 S. CT. 197, 5 L. ED. 2D. 218

7. NO PERSON SHOULD <sup>BE</sup> DENIED RELEASE, PENDING JUDICIAL  
REVIEW, BECAUSE OF INDIGENCE, AND HE IS ENTITLED TO RELEASE  
ON PERSONAL RECOGNIZANCE WHEN OTHER RELEVANT FACTORS MAKE  
IT REASONABLE TO BELIEVE THAT HE COMPLY WITH ORDERS OF  
COURT BARRY V. U.S., 82 S. CT. 11, 7 L. ED. 2D. 9.

8. DOUBT WHETHER BAIL SHOULD BE GRANTED OR DENIED  
SHOULD ALWAYS BE RESOLVED IN FAVOR OF DEFENDANT.  
FED. RULES CRIM. PROC. RULE 46 (a) (2), 18 U.S.C.A., U.S.C.A.  
CONSTIT. AMEND

EVE DEL CASTELLO

V.  
ALAMOSA COUNTY TRANSIT  
PARKING ENFORCEMENT CENTER

MEMORANDUM OF  
POINTS & AUTHORITIES

... continued

9. AMENDED ORDER 3-14-07 ALLOWED MAF TO REQUEST A HEARING BY 3-19-07 + OBTAIN A WAIVER OF ADVANCE PAYMENT. SO, I RESPONDED IN A LETTER DATED 4-19-07. THE LETTER INCLUDED THE FACT THAT THE COUNTY'S POLICY & VEHICLE CODE 40125 (WOUNDING SECTION (b) RELEVANT TO THIS CURRENT CASE IS UNCONSTITUTIONAL - PAYING FIRST IS AN ADMISSION OF GUILT - ARTICLE I, SECT. 15, G.I. PRIVILEGE AGAINST SELF-INCRIMINATION 122. IN GENERAL - HABEAS CORPUS PROCEEDING IS CIVIL IN NATURE FOR THE PURPOSES OF THE PRIVILEGE AGAINST SELF-INCRIMINATION IN RE SCOTT (2003) 29 CAL 4TH 783, 129 CAL RPTA 2D 605, 61 P3D 402

10. ON THE ISSUE OF MONEY - WHETHER A PERSON HAS ENOUGH OR NOT AT ALL - ARTICLE I, SECTION 12 BAIL - RELEASE ON OWN RECOGNIZANCE - A PERSON SHALL BE RELEASED ON BAIL BY SUFFICIENT SURETIES, EXCEPTIONS (a) CAPITAL CRIMES (b) FELONY OFFENSES, ETC.

11. THE LETTER LASTLY NOTED THAT THE CALIFORNIA STATE CONSTITUTION IS STILL RELEVANT & THE 14TH AMENDMENT PROTECTING IT ALSO - ARTICLE I SECTION 7, II, B - PROCEDURAL DUE PROCESS 1. NOTICE REQUIREMENTS 21. IN GENERAL - A SUBPOENA OBTAINED WITHOUT SERVICE OF SUMMONS OR VOLUNTARY APPEARANCE BY DEFENDANT DOES NOT CONSTITUTE DUE PROCESS. BECKER V. CHAMBERS (1979) 53 CAL 635 - AND AMENDED OTHERWISE SINCE.

1 EVE DEL CASTELLO  
 2 U.  
 3 ALAMOSA COUNTY TRANSIT  
 4 PARKING ENFORCEMENT CENTER

Memorandum of  
 Points & Authorities

#12 - #14

12. ON APRIL 27, 2007 WAS THE ORDER AFTER  
 MY LETTER SAYING VEHICLE CODE 40215 WAS CONSTITUTIONAL  
 BASED ON Tyler v. County of Alameda (1995) 34 CAL. App. 4th  
777. SO IT BECAME CASE A117981, DIV. 2 OF 1st Appellate  
 DISTRICT COURT - CLOSING BRIEF FILED 11-7-07 - WITHIN  
 I SAID THE TYLER CASE WAS WORK IN ITS ~~STATUTES~~ STATUTES  
 CITED. THE 1ST APPELLATE BASED ITS DENIAL ON  
 TYLER CASE FOLLOWED BY THE 6th APPELLATE DIST. IN  
LOVE v. City of Monterey (1995) 37 CAL. App. 4th 562, 564  
(LOVE).

13. BUT THEN, I HAD RECEIVED A HEARING ON THE  
 TICKET AT THE TIME BY A SMALL CLAIMS JUDGE IN  
 BERKELEY & IT WAS DISMISSED. IN MY REPLY TO  
ANSWER OF RESPONDENT'S AFTER PETITION FOR REVIEW,  
Supreme Court S16254 FILED 5-09-08 - I DISCUSSED  
 HOW ABUSIVE THE HEARING IN SAN LEANDRO, ALONG WITH  
 A HEARING OFFICER, WAS BEFORE THE HEARING IN BERKELEY.  
 SEE POINT 6 "PENDING JUDICIAL REVIEW IS HEAVILY FAVORED."  
 .... "BANDY v. U.S." ALSO, MATTHEWS v. ELDRIDGE (1976) 424 U.S. 319  
 WAS CITED. S16254.

14. THAT TICKET WAS AS A RESULT OF SHERIFF'S  
 MISCONDUCT & "NO PROBABLE CAUSE" & IT DID NOT  
 HAVE ANYTHING PRINTED ON IT ABOUT OUR RIGHTS TO  
 FILL OUT A ~~WAIVER~~ OF FEES "VEHICLE CODE 40215  
 SECTION (7)". AND, THE FORM I FILLED OUT TO GET THE  
 HEARING IN SAN LEANDRO SAID IF I WAS GUILTY I'D HAVE  
 TO PAY IN FULL. THAT'S ALSO ILLEGAL ACCORDING TO  
 40215 (7) DEERING POCKET SUPPLEMENT 2008.

- Eve Del Castello  
 EVE DEL CASTELLO

- 4 - 6-18-08  
 Date

EVE DEL CASTELLO  
PLAINTIFF

V.

ALAMEDA COUNTY TRANSIT  
PARKING ENFORCEMENT CENTER

DECLARATION OF  
EVE DEL CASTELLO  
IN SUPPORT OF  
COMPLAINT

- ① EXHIBIT A ATTACHED TO THIS DOCUMENT (DECLARATION)  
I IDENTIFY AS A TRUE AND CORRECT COPY  
OF VEHICLE CODE 40215. (1) + (2)
- ② EXHIBIT B ATTACHED TO THIS DECLARATION I  
IDENTIFY AS A TRUE AND CORRECT COPY OF  
THE PETITION FOR WRIT GRANTED/ORDER.

I HEREBY <sup>DECLARE</sup> ~~DECLARE~~ UNDER PENALTY OF  
PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.  
EXECUTED ON JUNE 18, 2008.

Eve Del Castello  
EVE DEL CASTELLO

**§ 40215. Initial review of notice of parking violation; Administrative hearing process; Time limits**

(a) For a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If following the initial review, the issuing agency is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the issuing agency shall cancel the notice of parking violation or notice of delinquent parking violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking penalty with the processing agency. The issuing agency shall provide a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons requesting an administrative hearing. After January 1, 1996, an administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include the following:

- (1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, hearings shall be held within the jurisdiction of the issuing agency or no more than 21 miles outside the county.
- (2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

(4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified examiners or administrative hearing providers that employ qualified examiners to conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement, parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of fines collected by the examiner.

(B) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs. Training may be provided through (i) an accredited college or university, (ii) a program conducted by the Commission on Peace Officer Standards and Training, (iii) American Arbitration Association or a similar established organization, or (iv) through any program approved by the governing board of the issuing agency, including a program developed and provided by, or for, the agency. Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the governing board of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in this subparagraph may be credited to an individual, at the discretion of the governing board of the issuing agency, based upon training programs or courses described in (i) to (iv), inclusive, that the individual attended within the last five years.

(5) The officer or person who issues a notice of parking violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of parking violation or copy thereof and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail.

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## OFFENSES AND PROSECUTION

EXHIBIT A

(7) Following a determination by the examiner that a person has committed the violation, the examiner may allow payment of the parking penalty in installments, or an issuing agency may allow for deferred payment or allow for payments in installments, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing community service in lieu of payment of a parking penalty.

(d) The provisions of this section relating to the administrative appeal process do not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

Added Stats 1995 ch 734 § 15 (AB 1228). *CONSTITUTIONAL WITH THE*

*Former Sections: WILKINSON GUARANTY ESMERALTA 34 THE ISSUING*  
Former § 40215, similar to the present section, was added Stats 1992 ch 1244 § 26, operative July 1, 1993, amended Stats 1993 ch 1093 § 10, and repealed Stats 1995 ch 734 § 14.

Former § 40215, similar to the present section, was added Stats 1986 ch 939 § 15, amended Stats 1987 ch 852 § 3, Stats 1989 ch 750 § 5, and repealed Stats 1992 ch 1244 § 25, operative July 1, 1993.

## Historical Derivation:

Former Veh C § 40200.7, as added Stats 1992 ch 1244 § 14, amended Stats 1993 ch 1093 § 7.

## Cross References:

Promise to appear to contest notice of violation: Veh C § 40200.7.

## Collateral References:

Wilkin & Epstein, Criminal Law (2d ed) § 1961.

## Attorney General's Opinions:

Notice of Delinquent Parking Violation will not serve as basis for issuance of warrant of arrest for violation of Veh C § 40508.70 Ops Atty Gen Cal 316.

## NOTES OF DECISIONS

The statutory scheme for contesting parking tickets, pursuant to which the person contesting a ticket must pay the parking penalty before an administrative hearing is held (Veh. Code, § 40200.7), does not violate due process requirements, and an evidentiary hearing need not be held before the contestant deposits the parking penalty. Although the contestant's interest in his or her money is significant, the amount of money imposed as a parking penalty is not so great as to render the deprivation a serious loss, and any deprivation is temporary, since, if the contestant prevails at the hearing, the penalty is refunded. A prompt postdeprivation hearing is available to correct administrative error and the predeprivation procedure is sufficient to provide a reasonably reliable basis for concluding that the facts justifying the official action are as a responsible governmental official warrants them to be. Moreover, the risk of error is alleviated by the initial review procedure (Veh. Code, § 40200.7, 40215, subd. (a)(1)), which occurs before deposit of the penalty. Even though the government interest in obtaining the parking penalties in advance of the hearing is weak, there is a government interest

in conserving administrative resources. Also, the prepayment requirement reduces the use of the contest procedure as a dilatory tactic by parking violators. Tyler v County of Alameda (1995, 1st Dist) 34 Cal App 4th 777, 40 Cal Rptr 2d 643.

There was no statutory authority for a county to impose a "processing fee" to help defray the costs of an administrative hearing by a person contesting a parking ticket pursuant to Veh. Code, §§ 40200.7, 40215, subd. (a)(2) & (b). By the terms of Veh. Code, § 40200.7 (contestant must deposit full amount of parking penalty in order to obtain administrative review), the amount which the contestant must pay in advance is the amount of the parking penalty; there is no statutory requirement that the contestant also pay a processing fee. Although a county has authority to impose an "administrative fee" under Veh. Code, §§ 40200.3, 40203.5 and 40220, such a fee is one which may be imposed when a parking ticket has gone unpaid, that is, when the parking violator did not contest the parking ticket and did not pay the penalty. Thus, administrative fees are something above and beyond the parking penalty. Moreover,

## OFFENSES

§ 40220

administrative fees are contemplated as charges to be imposed only when the delinquent parking ticket goes unpaid beyond a specified grace period. It would make no sense to impose an administrative fee on a contestant who has paid the parking penalty in advance of administrative review, while imposing no administrative fee on a parking violator who does not pay the parking penalty until after receiving notice of the delinquent ticket. Tyler v County of Alameda (1995, 1st Dist) 34 Cal App 4th 777, 40 Cal Rptr 2d 643.

The statutory scheme for contesting parking tickets, pursuant to which plaintiff was required to pay the parking penalty (§275) before the administrative hearing (Veh. Code, § 40200.7), did not deprive her of due process of law under either the federal or the state Constitution. Although the procedure did constitute a deprivation of property, two important government purposes—prompt collection of fines and deterrence of dilatory and frivolous challenges to parking tickets—at least counterbalanced, if not outweighed, the private interest in retaining a parking penalty until after the adversary administrative review. The risk of an erroneous deprivation of property did not outweigh the governmental interest involved, even though the government derived revenue from parking tickets and the first investigative stage was conducted by the same agency that issued the citation. The citation gives the violator an opportunity to gather evidence contemporaneous with the charged violation, and, in

requesting an investigation, the violator has an opportunity to present his or her case in writing with any documentary and photographic evidence relevant to the investigation. A presumably impartial investigator reviews the violator's contentions in determining the validity of the citation. It is only after this procedure that the violator is required to deposit the penalty in order to obtain further administrative and judicial review. The successful contestant is entitled to a prompt refund of the penalty deposit. Love v City of Monterey (1995, 6th Dist) 37 Cal App 4th 562, 43 Cal Rptr 2d 911.

In determining whether the statutory scheme (Veh. Code, § 40200.7) requiring persons cited for parking violations to deposit the amount of the parking penalty in order to contest the parking ticket at an administrative hearing, violates due process, a balancing test is applicable. Due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place, and circumstances, but is flexible and calls for such procedural protections as the particular situation demands. Accordingly, resolution of the issue whether the procedures were constitutionally sufficient required analysis of the governmental and private interests affected. Depending on the nature of the private interest affected, something less than an evidentiary hearing is sufficient prior to adverse administrative action. Love v City of Monterey (1995, 6th Dist) 37 Cal App 4th 562, 43 Cal Rptr 2d 911.

## § 40219. [Section repealed 1987.]

Added Stats 1986 ch 939 § 15. Repealed Stats 1987 ch 852 § 4. The repealed section related to the agency's inquiry as to the owner's compliance with requirements for releasing liability.

## § 40220. Options for collection of unpaid parking penalties

Except as otherwise provided in Sections 40221 and 40222, the processing agency shall proceed under only one of the following options in order to collect an unpaid parking penalty:

(a) File an itemization of unpaid parking penalties and service fees with the department for collection with the registration of the vehicle pursuant to Section 4760.

(b) If more than four hundred dollars (\$400) in unpaid penalties and fees have been accrued by any person or registered owner, proof thereof may be filed with the court with the same effect as a civil judgment. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of an unpaid civil judgment entered against a defendant in an action on a debtor. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The processing agency shall send a notice by first-class mail to the person or registered owner indicating that a judgment shall be entered for the unpaid penalties, fees, and costs and that, after 21 calendar days from the date of the mailing of the notice, the judgment shall have the



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County Counsel  
RAYMOND S. LARA [213181]  
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County of Alameda  
1221 Oak Street, Suite 450  
Oakland, California 94612-4296

arking

Exhibit

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

B

Del Castello

Plaintiff/Petitioner(s)

VS.

Alameda County Transit Parking Enforcement C

Defendant/Respondent(s)  
(Abbreviated Title)No. RG06283347

Order

Petition for Writ  
Granted

The Petition for Writ was set for hearing on 03/08/2007 at 02:00 PM in Department 31 before the Honorable Frank Roesch. The Tentative Ruling required that the parties appear, and the matter came on regularly for hearing.

Petitioner Eve Del Castello appeared in Pro per. Respondant Alameda County Transit Parking Enforcement Center appeared by counsel Raymond S. Lara.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The Petition of Eve Del Castello for Writ of Mandate is GRANTED. The matter is referred back to Alameda County Transit Parking Enforcement Center to allow Petitioner to request an administrative hearing. The Petitioner shall have until March 19, 2007 to request the hearing.

Dated: 03/08/2007

Judge Frank Roesch

Order

DEL CASTELLO

VS.

Prayer for Relief

Alameda County Transit  
Parking Enforcement Center

THIS CASE STARTED IN AUGUST OR 2006  
AND I WISH TO BE REIMBURSED FOR THE  
TRAVELING, POSTAGE & PRINTING EXPENSE AS WELL  
AS THE HOURS & HOURS OF LABOR INVOLVED. ~~IT~~  
HAS BEEN AN ABUSIVE AND INSULTING CASE TO  
SURVIVE THEREFORE, PLAINTIFF REQUESTS ALL  
RELIEF TO WHICH THE PLAINTIFF IS ENTITLED.

Eve Del Castello  
EVE DEL CASTELLO

6-18-08  
Date